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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/686,289

10/15/2003

Jose Barbosa Machado Neto

J92-054US

7118

21706 7590 03/19/2008

NOTARO AND MICHALOS  
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SUITE 110  
ORANGEBURG, NY 10962-2100

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

03/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/686,289

**Applicant(s)**NETO, JOSE BARBOSA  
MACHADO**Examiner**

Steven L. Weinstein

**Art Unit**

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of the prior art in view of Hnatek (DE'813), further in view of Drouillard et al ('747), Billyon et al (DE'821), Tanio et al (JP'692), Eger (DE'360), Hnatek (DE'379), Luigi (EP'154), Softech (JP'390), Leu Anlagenbau (CH'393), Van Wyk et al ('621), and Bowling ('535) for the reasons given in the Office actions mailed 2/5/07 and 9/7/07, further in view of Lin (5,966,307), Crawley et al (2002/0140567), Woods et al (7,210,993), Trpkovski (2003/0047538), Grube (6,112,132), Cowden (6,259,056), Varriano-Marston (6,441,340), Tessier et al (5,902,177), Assa et al (6,791,592) and Paulk et al (6,529,799).

The claims are all directed to providing a food product with features directly on the surface employing devices such as a laser and a PLC. Lin (5,966,307), Crawley et al (2002/0140567), Woods et al (7,210,993), Trpkovski (2003/0047538), Grube (6,112,132), Cowden (6,259,056), Varriano-Marston (6,441,340), Tessier et al (5,902,177), Assa et al (6,791,592) and Paulk et al (6,529,799) all are relied on as further evidence that it was notoriously conventional to employ a PLC with laser marking equipment. To therefore modify the combination and employ a PLC for its art recognized and applicants intended function of providing control of etching, or any process for that matter, would have been obvious.

Also, the claims are rejected in reverse order, employing Hnatek as the primary reference as follows.

Claims 15-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hnatek (DE'813), further in view of Drouillard et al ('747), Billyon et al (DE'821), Tanio et al (JP'692), Eger( DE'360), Hnatek (DE'379), Luigi (EP'154), Softech (JP'390), Leu Anlagenbau (CH'393), Van Wyk et al ('621), and Bowling ('535) for the reasons given in the Office actions mailed 2/5/07 and 9/7/07, further in view of Lin (5,966,307), Crawley et al (2002/0140567), Woods et al (7,210,993), Trpkovski (2003/0047538), Grube (6,112,132), Cowden (6,259,056), Varriano-Marston (6,441,340), Tessier et al (5,902,177), Assa et al (6,791,592) and Paulk et al (6,529,799) further in view of applicants admission of the prior art, for the reasons given in the previous Office actions.

New references, Lin (5,966,307), Crawley et al (2002/0140567), Woods et al (7,210,993), Trpkovski (2003/0047538), Grube (6,112,132), Cowden (6,259,056), Varriano-Marston (6,441,340), Tessier et al (5,902,177), Assa et al (6,791,592) and Paulk et al (6,529,799) are relied on as above as further evidence that it would have been obvious to employ a PLC with a laser marking process.

All of applicants remarks filed 1/4/08 have been fully and carefully considered but are either not found to be convincing for the reasons of record and above, or are moot in view of the new rejection. It was urged that Hnatek does not inherently disclose a PLC. The new rejection does not rely on this teaching. The art taken as a whole teaches laser marking equipment was conventionally employed with a PLC, and thus to employ

it with the art taken as a whole for its well known function to control equipment/process would have been unequivocally obvious.

The remainder of the references cited on the PTO892 form are cited as pertinent art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday-Friday 7:00 A.M.-2:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steve Weinstein/  
Primary Examiner, Art Unit 1794

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